

ESTTA Tracking number: **ESTTA397173**Filing date: **03/09/2011**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Pottle Productions Inc.
Granted to Date of previous extension	03/09/2011
Address	4024 Radford Avenue Studio City, CA 91604 UNITED STATES

Correspondence information	Pottle Productions Inc. 4024 Radford Avenue Studio City, CA 91604 UNITED STATES trademarks@cbs.com, elena.vetere@cbs.com Phone:2129753609
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Applicant Information

Application No	77939390	Publication date	11/09/2010
Opposition Filing Date	03/09/2011	Opposition Period Ends	03/09/2011
Applicant	The Marshall Companies, LLC #244 5850 West 3rd Street Los Angeles, CA 90036 UNITED STATES		

Goods/Services Affected by Opposition

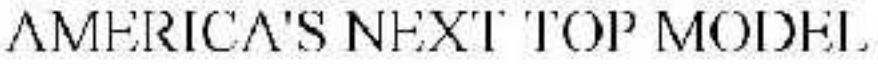
Class 009. First Use: 2009/11/01 First Use In Commerce: 2010/02/01
All goods and services in the class are opposed, namely: Downloadable motion pictures and television shows about pursuing careers in adult entertainment; Motion picture films about pursuing careers in adult entertainment

Grounds for Opposition

Immoral or scandalous matter	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3154102	Application Date	12/05/2005
Registration Date	10/10/2006	Foreign Priority Date	NONE

Word Mark	AMERICA'S NEXT TOP MODEL
Design Mark	
Description of Mark	NONE
Goods/Services	Class 006. First use: First Use: 2005/09/09 First Use In Commerce: 2005/09/09 METAL KEY CHAIN

U.S. Registration No.	3154101	Application Date	12/05/2005
Registration Date	10/10/2006	Foreign Priority Date	NONE
Word Mark	AMERICA'S NEXT TOP MODEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2005/05/20 First Use In Commerce: 2005/05/20 Entertainment services, namely, ongoing reality based television series; providing entertainment information concerning television program via global computer network		

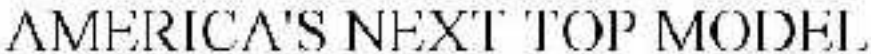
U.S. Registration No.	3154100	Application Date	12/05/2005
Registration Date	10/10/2006	Foreign Priority Date	NONE
Word Mark	AMERICA'S NEXT TOP MODEL		

Design Mark	AMERICA'S NEXT TOP MODEL
Description of Mark	NONE
Goods/Services	Class 021. First use: First Use: 2004/09/01 First Use In Commerce: 2004/09/01 Cosmetic Brushes

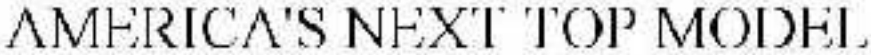
U.S. Registration No.	3464134	Application Date	11/08/2005
Registration Date	07/08/2008	Foreign Priority Date	NONE
Word Mark	AMERICA'S NEXT TOP MODEL		
Design Mark	AMERICA'S NEXT TOP MODEL		
Description of Mark	NONE		
Goods/Services	Class 020. First use: First Use: 2005/08/05 First Use In Commerce: 2005/08/05 Plastic key chains		

U.S. Registration No.	3735277	Application Date	03/31/2008
Registration Date	01/05/2010	Foreign Priority Date	NONE
Word Mark	AMERICA'S NEXT TOP MODEL		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 2009/03/30 First Use In Commerce: 2009/03/30 ALL PURPOSE SPORT BAGS; ATHLETIC BAGS; BEACH BAGS; DUFFEL BAGS; GYM BAGS; HANDBAGS; OVERNIGHT BAGS; PURSES; TOTE BAGS		

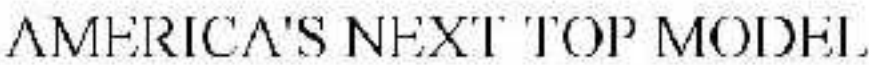
U.S. Application No.	77436541	Application Date	04/01/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AMERICA'S NEXT TOP MODEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: FRUIT AND VEGETABLE BEVERAGES; SOY-BASED FOOD BEVERAGES NOT USED AS MILK SUBSTITUTES; DRINKING WATER, FLAVORED WATERS, SOFT DRINKS; BEER		

U.S. Application No.	77436117	Application Date	03/31/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AMERICA'S NEXT TOP MODEL		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 029. First use:</p> <p>CHEESE; CHEESE AND CRACKER COMBINATIONS; CHEESE SPREAD; CANDIED FRUIT; CHOCOLATE MILK; DAIRY PRODUCTS EXCLUDING ICE CREAM, ICE MILK AND FROZEN YOGURT; DIPS; DRIED FRUITS; DRINKING YOGURTS; FROZEN MEALS CONSISTING PRIMARILY OF MEAT, FISH,POULTRY OR VEGETABLES; FRUIT PRESERVES; FRUIT-BASED SNACK FOOD; JAMS; JELLIES; MILK BEVERAGES WITH HIGH MILK CONTENT; MEATS; PROCESSED, SHELLED, ROASTED NUTS; PEANUT BUTTER; POTATO CHIPS; POTATO-BASED SNACK FOODS; POWDERED MILK FOR FOOD PURPOSES; RAISINS; SNACK MIX CONSISTING PRIMARILY OF PROCESSED FRUITS, PROCESSED NUTS AND SEEDS AND/OR RAISINS; SOUP; SOUP MIXES; YOGURT; EDIBLE OILS; PROCESSED FOODS, NAMELY, PROCESSED SOUPS AND BEANS; DAIRY- , VEGETABLE- OR FRUIT-BASED FOOD BEVERAGES, SOY-BASED FOOD BEVERAGE USED AS A MILK SUBSTITUTE; SNACK DIP, EXCLUDING SALSA; PROCESSED VEGETABLES AND FRUITS; DRIED VEGETABLES; FROZEN FRUITS AND VEGETABLES; PROCESSED GARLIC; SLICED CANNED, BOTTLED OR BAGGED FRUITS AND VEGETABLES; VEGETABLE-BASED SNACK FOODS; VEGETABLE-BASED SPREADS; PROCESSED EDIBLE SEEDS, AND SEED AND NUT BUTTERS; PROTEIN BASED, NUTRIENT-DENSE SNACK BARS</p>

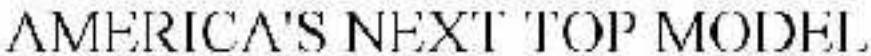
U.S. Application No.	77436109	Application Date	03/31/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AMERICA'S NEXT TOP MODEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 024. First use:		

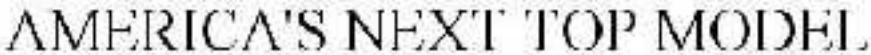
	AFGHANS; BARBECUE MITTS; BATH LINEN; BATH TOWELS; BED BLANKETS; BED CANOPIES; BED LINEN; BED SHEETS; BED SKIRTS; BED SPREADS; BLANKET THROWS; CALICO; CLOTH COASTERS; CLOTH DOILIES; CLOTH FLAGS; CLOTH PENNANTS; COMFORTERS; CURTAINS; FABRIC FLAGS; FELT PENNANTS; GOLF TOWELS; HAND TOWELS; HANDKERCHIEFS; HOUSEHOLD LINEN; KITCHEN TOWELS; OVEN MITTS; PILLOW CASES; PILLOW COVERS; POT HOLDERS; QUILTS; SILK BLANKETS; TABLE LINEN; TEXTILE NAPKINS; TEXTILE PLACE MATS; TEXTILE TABLECLOTHS; THROWS; WASHCLOTHS; WOOLLEN BLANKETS
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U.S. Application No.	77436101	Application Date	03/31/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AMERICA'S NEXT TOP MODEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 021. First use: REMOVABLE INSULATORS FOR DRINK CANS AND BOTTLES; LUNCH KITS CONSISTING OF LUNCH BOXES AND INSULATED CONTAINERS; HAIR BRUSHES AND HAIR COMBS; SPORTS BOTTLES SOLD EMPTY; THERMAL INSULATED CONTAINERS FOR FOOD AND BEVERAGE		

U.S. Application No.	77436073	Application Date	03/31/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AMERICA'S NEXT TOP MODEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 020. First use:		

	PICTURE FRAMES; SLEEPING BAGS; MIRRORS; PLASTIC NAME BADGES; PILLOWS; FURNITURE; BEDS; CHAIRS; SLEEPING BAGS; WIND CHIMES
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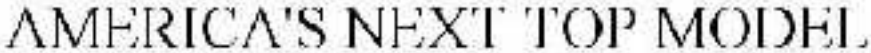
U.S. Application No.	77436061	Application Date	03/31/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AMERICA'S NEXT TOP MODEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: BACKPACKS; BOOK BAGS; CALLING CARD CASES; CHANGE PURSES; COIN PURSES; DIAPER BAGS; FANNY PACKS; KNAPSACKS; KEY CASES; LEATHER KEY CHAINS; LUGGAGE; LUGGAGE TAGS; SATCHELS; LEATHER AND TEXTILE SHOPPING BAGS; UMBRELLAS; WAIST PACKS; WALLETS		

U.S. Application No.	77436052	Application Date	03/31/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AMERICA'S NEXT TOP MODEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: PAPER; PAPER AND CARDBOARD ARTICLES, NAMELY, APPLIQUES IN THE FORM OF DECALS, BASEBALL CARDS, BOOKMARKS, BUMPER STICKERS, CALENDARS, CARTOON STRIPS, CHRISTMAS CARDS, COASTERS MADE OF PAPER, COMIC STRIPS, DECALS, DECORATIVE PAPER CENTERPIECES, GIFT CARDS, GIFT WRAPPING PAPER, GREETING CARDS, PAPER FLAGS, PAPER PARTY FAVORS, PAPER CAKE		

	DECORATIONS, PAPER PARTY DECORATIONS, PAPER NAPKINS, PAPER PARTY BAGS, PAPER GIFT WRAP BOWS, PAPER PENNANTS, PAPER PLACE MATS, PAPER TABLE CLOTHS, POSTCARDS, POSTERS, PRINTED AWARDS, PRINTED CERTIFICATES, PRINTED INVITATIONS, PRINTED MENUS, SCORE CARDS, STICKERS, TRADING CARDS; PRINTED MATTER, NAMELY, MAGAZINES, NEWSLETTERS, NEWSPAPERS, AND PERIODICALS FEATURING STORIES, GAMES AND ACTIVITIES; BOOKS, NAMELY, ADDRESS BOOKS, ALMANACS, APPOINTMENT BOOKS, AUTOGRAPH BOOKS, A SERIES OF FICTION BOOKS, BOOKS FEATURING STORIES, GAMES AND ACTIVITIES, COIN ALBUMS, COLORING BOOKS, COMIC BOOKS, COUPON BOOKS, DIARIES, GUEST BOOKS, PHOTOGRAPH ALBUMS, RECIPE BOOKS, STAMP ALBUMS; PHOTOGRAPHS; STATIONERY; OFFICE SUPPLIES, NAMELY, BALL POINT PENS, BINDERS, BOOKENDS, DRY ERASE WRITING BOARDS AND WRITING SURFACES, ENVELOPES, PAPERWEIGHTS, STAPLERS; SCHOOL SUPPLIES, NAMELY, ARTS AND CRAFT PAINT KITS, CHALK, COLOR PENCILS, DRAWING RULERS, ERASERS, FELT PENS, GLOBES, MAPS, MEMO PADS, MODELING CLAY, NOTE PAPER, NOTEBOOKS, NOTEBOOK PAPER, PEN OR PENCIL HOLDERS, PENCILS, PENCIL SHARPENERS, PEN AND PENCIL CASES AND BOXES, PENS, RUBBER STAMPS, UNGRADUATED RULERS, WRITING PAPER, WRITING IMPLEMENTS; PAPER AND PLASTIC SHOPPING BAGS
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U.S. Application No.	77436042	Application Date	03/31/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AMERICA'S NEXT TOP MODEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: HAND-HELD ELECTRIC HAIR DRYERS		

U.S. Application No.	77436024	Application Date	03/31/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AMERICA'S NEXT TOP MODEL		

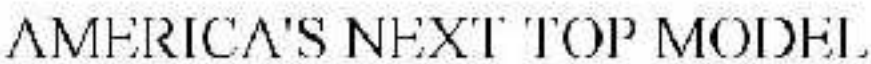
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use:</p> <p>AUDIO CASSETTE PLAYERS; AUDIO CASSETTES, AUDIO DISCS, COMPACT DISCS ALL FEATURING PRE-RECORDED ENTERTAINMENT IN THE NATURE OF A TELEVISION REALITY SERIES; AUDIO SPEAKERS; BINOCULARS; CALCULATORS; CAMCORDERS; CAMERAS; CD-ROMS FEATURING PRE-RECORDED ENTERTAINMENT IN THE NATURE OF A TELEVISION REALITY SERIES; COMPUTER HARDWARE, NAMELY, CD-ROM DRIVES. CD-ROM WRITERS, AND COMPUTER MODEMS, CELLULAR TELEPHONES; CELLULAR TELEPHONE ACCESSORIES, NAMELY, HEADPHONES, HEAD SETS, ADAPTERS AND BATTERIES FOR CELLULAR TELEPHONES; CELLULAR TELEPHONE CASES; FACE PLATES FOR CELLULAR TELEPHONES; COMPACT DISC PLAYERS; COMPUTER GAME PROGRAMS; COMPUTER GAME CARTRIDGES AND DISCS; COMPUTERS; COMPUTER HARDWARE; COMPUTER KEYBOARDS; COMPUTER MONITORS; COMPUTER MOUSE; COMPUTER DISC DRIVES; PRE-RECORDED COMPUTER SOFTWARE CONTAINING AUDIO AND VIDEO CLIPS FEATURING ENTERTAINMENT IN THE NATURE OF A REALITY SERIES; DECORATIVE MAGNETS; DVDS, DIGITAL VERSATILE DISCS AND DIGITAL VIDEO DISCS FEATURING PRE-RECORDED ENTERTAINMENT IN THE NATURE OF A TELEVISION REALITY SERIES; DVD PLAYERS; ELECTRONIC PERSONAL ORGANIZERS; EYEGLASS CASES; EYEGLASSES; HEADPHONES; MICROPHONES; MP3 PLAYERS; MOUSE PADS; MOTION PICTURE FILMS; PAGERS; PERSONAL STEREOS; PERSONAL DIGITAL ASSISTANTS; PRINTERS; RADIOS; SUNGLASSES; TELEPHONES; TELEVISION SETS; VIDEO CASSETTE PLAYERS; VIDEO GAME CARTRIDGES; VIDEO GAME DISCS; VIDEO CASSETTES FEATURING PRE-RECORDED ENTERTAINMENT IN THE NATURE OF A TELEVISION REALITY SERIES; VIDEOPHONES; WALKIE-TALKIES; RADIOS INCORPORATING CLOCKS; ELECTRIC HAIR CURLING IRONS; ELECTRIC HAIR STRAIGHTENER; ELECTRIC HOT BRUSHES; HOT AIR HAIR BRUSHES; ELECTRIC HAIR CURLERS</p>		

U.S. Application No.	77436006	Application Date	03/31/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AMERICA'S NEXT TOP MODEL		

Design Mark	AMERICA'S NEXT TOP MODEL
Description of Mark	NONE
Goods/Services	Class 014. First use: JEWELRY, NAMELY, WATCHES, PINS, EAR CLIPS, BRACELETS, EARRINGS, BROOCHES, NECKLACES, RINGS; JEWELRY BOXES NOT MADE OF PRECIOUS METALS

U.S. Application No.	77436492	Application Date	04/01/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AMERICA'S NEXT TOP MODEL		
Design Mark	AMERICA'S NEXT TOP MODEL		
Description of Mark	NONE		
Goods/Services	Class 030. First use: CONFECTIONERY, NAMELY, CANDY, CAKE DECORATIONS MADE OF CANDY, CHOCOLATE, CONFECTIONERY CHIPS FOR BAKING, FROZEN CONFECTIONS, FROZEN YOGURT, ICE CREAM, ICE MILK, LICORICE, MARSHMALLOWS, SHERBETS; BUBBLE GUM; CHEWING GUM; BREAKFAST CEREALS; OATMEAL; PREPARATIONS MADE FROM CEREALS, NAMELY, READY TO EAT CEREAL DERIVED FOOD BARS, CEREAL-BASED SNACK FOODS; BREAD; MUFFINS; PASTRIES; WAFFLES; PANCAKES; COOKIES; CRACKERS; BISCUITS; POPCORN; CORN CHIPS; PRETZELS; PUDDINGS; COFFEE; TEA; FROZEN, PREPARED OR PACKAGED ENTREES AND MEALS CONSISTING PRIMARILY OF PASTA OR RICE; PROCESSED PASTA AND RICE; PASTA; PASTA SALAD; FLOUR FOR FOOD; HERBAL TEA FOR FOOD PURPOSES; HONEY, PROPOLIS AND ROYAL JELLY FOR FOOD PURPOSES; SAUCES; SALSA; COFFEE SUBSTITUTES, ARTIFICIAL COFFEE AND VEGETABLE PREPARATIONS FOR USE AS COFFEE; FRUIT ICES, FRUIT PIES, FRUIT FLAVORINGS USED AS AN ADDITIVE FOR NON-NUTRITIONAL PURPOSES; SNACK MIX CONSISTING PRIMARILY OF CRACKERS, PRETZELS, CANDIED NUTS		

	AND/OR POPPED POPCORN; ICE CREAM SUBSTITUTES; COFFEE BEANS, GROUND COFFEE BEANS; GRANOLA; CONDIMENTS, NAMELY, MUSTARD, VINEGAR; SPICES; PROCESSED, CEREAL-DERIVED FOOD PRODUCT TO BE USED AS A BREAKFAST CEREAL, SNACK FOOD, OR INGREDIENT FOR MAKING FOOD; GRAIN BASED SNACK FOODS
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U.S. Application No.	77234430	Application Date	07/20/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AMERICA'S NEXT TOP MODEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: Games and playthings, namely, fashion dolls and doll accessories, board games, role play toys and figurines, and art activity toys		

U.S. Application No.	77436523	Application Date	04/01/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AMERICA'S NEXT TOP MODEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 031. First use: FRESH FRUITS AND VEGETABLES; UNPROCESSED NUTS		

Attachments	78766815#TMSN.jpeg (1 page)(bytes) 78766813#TMSN.jpeg (1 page)(bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/RB/
Name	Pottle Productions Inc.
Date	03/09/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

	X	
POTTLE PRODUCTIONS, INC.	:	
	:	
Opposer,	:	Opposition No. _____
	:	
v.	:	Application Serial No. 77/939390
	:	
THE MARSHALL COMPANIES, LLC,	:	
	:	
Applicant.	:	
	:	
	X	

NOTICE OF OPPOSITION

CBS Broadcasting Inc. is in privity with Pottle Productions, Inc. as Pottle Productions, Inc. is a production unit under CBS Broadcasting Inc.

Pottle Productions, Inc., (“Opposer”), a California corporation having its principal offices at 2730 Gateway Oaks Drive, Sacramento, CA 95833, believes it will be damaged by registration of AMERICA’S NEXT CELEBRITY PORN STAR, sought to be registered on the Principal Register by The Marshall Companies, LLC (“Applicant”) in Application Serial No. 77/939390 and published in the Official Gazette on November 9, 2010 (“Challenged Mark”). Applicant seeks to register the Challenged Mark in connection with “[d]ownloadable motion pictures and television shows about pursuing careers in adult entertainment; [m]otion picture films about pursuing careers in adult entertainment” in Class 9. These services are nearly identical and/or closely related to Opposer’s services. Accordingly, Opposer hereby opposes registration of the Challenged Mark on the following grounds:

A. POTTLE’S “AMERICA’S NEXT TOP MODEL” TRADEMARKS AND SERIES

1. Opposer is a television production company that owns and distributes the famous “America’s Next Top Model” television series in the United States and worldwide (the “ANTM Series” or “Series”).

2. Opposer is the owner of the U.S. rights in and to the ANTM Series and the trademark AMERICA'S NEXT TOP MODEL, including U.S. Registration Nos. 3,154,102; 3,154,101; 3,154,100; 3,464,134 and 3,735,277, U.S. Application Serial Nos. 77/436541; 77/436117; 77/436109; 77/436101; 77/436073; 77/436061; 77/436052; 77/436042; 77/436024; 77/436006; 77/436492; 77/234430 and 77/436523 and of the goodwill associated therein (hereinafter collectively referred to as the "ANTM Mark").

3. Opposer has also established extensive common law rights in the ANTM Mark by virtue of its use, directly or through licensed third parties, in connection with a variety of goods and services, including, *inter alia*, television broadcasting, entertainment services, DVDs, clothing, bags, dolls, caps, pens, pads, mugs, key chains, cosmetic brushes and other consumer products.

4. Opposer adopted, first used, and/or sought to register its ANTM Mark for a variety of goods and services long prior to Applicant's application for, adoption and use of the Challenged Mark. Opposer's rights in the ANTM Mark began to accrue at least as early as May 20, 2003, the date on which the first episode of AMERICA'S NEXT TOP MODEL was broadcast nationally, which date is the date on which Applicant was presumed to have received constructive notice of Opposer's rights. Thus, Opposer clearly has senior rights over any use and registration by Applicant of the ANTM Mark or marks confusingly similar thereto, including the Challenged Mark.

5. Opposer licenses to international production companies in at least 26 territories the right to produce a local variant of AMERICA'S NEXT TOP MODEL using Applicant's show format, but permitting the production company to use a local variation of the title such as "Australia's Next Top Model" in Australia. The license fees for the ANTM Series have generated millions of dollars worldwide.

B. THE EXTENSIVE USE AND FAME OF THE ANTM MARK

6. Since long prior to the filing of the Application and any alleged use by Applicant of the Challenged Mark, Opposer has extensively and continuously promoted the ANTM Mark

throughout the United States and internationally in advertising and other promotional materials, including newspapers, magazines, television, and the Internet.

7. The original ANTM Series was first broadcast in the United States in 2003 on the UPN Network. The UPN Network later merged with The WB Network to create The CW Television Network, which currently broadcasts the ANTM Series. As a result of the extraordinary popularity of AMERICA'S NEXT TOP MODEL, the ANTM Series has been broadcast continuously in the United States since its premiere in 2003, has been broadcast in more than 65 territories worldwide and recently premiered in the United States the first episode of its sixteenth cycle in February 2011.

8. The ANTM Series is extremely successful in North America and is one of the most-watched series on The CW Television Network. The Series has exceptionally strong ratings and attracts large numbers of viewers in the United States, receiving between 3.6 and 6.3 million viewers per episode.

9. The ANTM Series has enjoyed, and continues to enjoy, critical acclaim, with various nominations and awards granted to date. By way of example only, the ANTM Series won the 2008 Teen Choice Award for Choice TV Reality Beauty & Makeover and the 2007 and 2008 Teen Choice Awards for Choice TV Personality. America's Next Top Model Award nominations include GLAAD Media Award nominations for Outstanding Reality Program; NAACP Image Award nominations for Outstanding Reality Series; a Kids Choice Award nomination for Favorite Reality Show; and numerous Teen Choice Award nominations for Choice TV Female Reality/Variety Star and Choice Reality Show.

10. Opposer has licensed an extensive array of merchandising products that are produced and sold worldwide in association with the ANTM Mark. These products include clothing, DVDs, bags, dolls, caps, pens, pads, mugs, key chains, cosmetic brushes, make-up and other consumer products relating to the ANTM Series and all identified by the ANTM Mark. These products were being produced and sold well prior to Applicant's filing of the Application.

11. As evidenced by the foregoing, Opposer has devoted substantial resources to developing recognition of the ANTM Mark and the goodwill and fame associated with the ANTM Series and ANTM Mark.

12. As a result of Opposer's exclusive and extensive use and promotion of its ANTM Mark and Series, the ANTM Mark have acquired enormous value and achieved vast public recognition by both the television viewing public and within the television industry as identifying and distinguishing programs, goods and services emanating exclusively from, or authorized by, Opposer. As a result, the ANTM Mark has become a famous mark (within the meaning of Section 43(c) of the Lanham Act) and the outstanding reputation and goodwill associated with the ANTM Mark are of incalculable value to Opposer.

C. APPLICANT'S ATTEMPTS TO MISAPPROPRIATE THE GOODWILL OF THE ANTM MARK

13. Applicant's Challenged Mark is similar to Opposer's ANTM Mark in sight, sound, connotation and commercial impression. Opposer's mark incorporates wholly the prominent elements of Opposer's ANTM mark, thereby causing the public to mistakenly believe that Applicant's services originate with or are otherwise approved, sponsored or licensed by Opposer.

14. Applicant's adoption and use of the Challenged Mark for a closely related television services creates a likelihood of confusion and false association between Opposer and Applicant. Opposer has established strong trademark rights in the "America's Next" and "America's Next Top" elements for use in connection with television programming focusing on a competitive search for a talented individual. The essential elements of both the ANTM Mark and the Challenged Mark are strikingly similar.

15. In view of the fact that the immense popularity of the original ANTM Series has already resulted in the creation of fifteen subsequent cycles (cycle sixteen has recently premiered) and numerous format agreements throughout the world, Applicant's use of the Challenged Mark will cause

television viewers to believe that Applicant's program is a spin-off from the ANTM Series, or a further extension of the ANTM franchise. It is well known that the ANTM Mark is a "franchise" brand, as is made clear by the fifteen ANTM Series cycles and the numerous format agreements and licensed products. At least one of Applicant's foreign licensed series, "Australia's Next Top Model", has aired in the United States. Thus, television viewers will mistakenly believe that Applicant's programming promoted under the Challenged Mark is an extension of the ANTM Mark into a television show with the same or similar format involving a search for a different type of talent. Applicant's registration or use of the Challenged Mark is, therefore, likely to cause confusion among the television viewing public, who may believe that the programs promoted by Applicant under the Challenged Mark are endorsed by, or associated with the ANTM Series, the ANTM Mark, and/or Opposer.

16. Upon information and belief, Applicant's adoption and use of the Challenged Mark is calculated to appropriate the goodwill and reputation created by Opposer in the ANTM Series and the ANTM Mark such that the goodwill and reputation of the ANTM Mark will "rub off" on Applicant's Challenged Mark.

17. The word PORN is of a risqué nature. Upon information and belief, Applicant's adoption and use of the Challenged Mark will likely cause the television viewing public to believe that such risqué content is endorsed by, associated with, or originates with the ANTM Series, the ANTM Mark, and/or Opposer, and thereby damage the goodwill and reputation created by Opposer in the ANTM Series and the ANTM Mark.

18. Applicant will improperly benefit if permitted to proceed with the Challenged Mark, since such programming will be falsely associated with the ANTM Mark and their substantial goodwill and recognition.

19. Moreover, through the extensive and continuous use of the ANTM Mark by Opposer prior to the filing of the Application, and the widespread public identification of the ANTM Mark and Series, Opposer's ANTM Mark has become famous within the meaning of the Lanham Act.

Applicant's Challenged Mark will dilute the value of the famous ANTM Mark and lessen the ability of the ANTM Mark to identify and distinguish Opposer's goods and services.

20. The Challenged Mark will, furthermore, damage Opposer as the Challenged Mark is likely to disparage the ANTM Mark, the ANTM Series and Opposer and/or cause them to be in disrepute due to the risqué subject matter of the Challenged Mark.

21. For the foregoing reasons, registration of the Challenged Mark would be inconsistent with Opposer's prior and superior rights in its ANTM Mark as well as Opposer's statutory grant of exclusivity of use of its ANTM Mark, and damage Opposer's substantial investment and goodwill in its ANTM Mark.

WHEREFORE, Opposer requests that the opposition be sustained and that Application No. 77/939390 be refused registration. Please charge the filing fee to Deposit Account No. 502273.

Respectfully submitted,

**CBS BROADCASTING INC.
ON BEHALF OF POTTLE PRODUCTIONS, INC.**

Dated: March 9, 2011

By: 
Rebecca Borden
Counsel for Opposer

c/o: Pottle Productions, Inc.
2730 Gateway Oaks Drive
Sacramento, CA 95833

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POTTLE PRODUCTIONS, INC.	:
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Opposer,	:
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vi.	:
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THE MARSHALL COMPANIES, LLC,	:
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Applicant.	:
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Opposition No. _____

Application Serial No. 77/939390

I, Elena Vetere, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** has been transmitted electronically to the United States Patent and Trademark Office on the date indicated:


Elena Vetere

I, Elena Vetere, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** was served, on the date indicated below, by First Class Mail, postage prepaid, to the following:


Elena Vetere